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16
17 UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION
20

21 MUNGER, TOLLES & OLSON LLP
O/B/O AMERICAN MANAGEMENT
22 SERVICES LLC, D/B/A/ PINNACLE,

23 Plaintiff,

24 v.

25 UNITED STATES DEPARTMENT OF
THE ARMY,

26 Defendants.
27
28

No. CV 13-06890 DDP (MANx)

**JOINT REPORT OF
CONFERENCE OF PARTIES**

[Fed. R. Civ. P. 26(f)]

Date: April 21, 2014

Time: 3:30 p.m.

Ctrm: Hon. Dean D. Pregerson

1 On March 27, 2014, pursuant to Rule 26(f) of the Federal Rules of Civil
2 Procedure, Plaintiff and Defendant, through their undersigned counsel, held their
3 Conference of Parties.

4 The parties hereby submit their Joint Report of Conference of Parties
5 pursuant to Rule 26(f) and the Court's Order filed March 5, 2014.

6 This is an action brought pursuant to the Freedom of Information Act.
7 Plaintiff's complaint was filed on September 18, 2013. Defendant answered
8 Plaintiff's complaint on February 5, 2014.

9 During the Conference of Parties, the parties conferred to consider the nature
10 and basis of their claims and defenses and the possibilities for a prompt settlement
11 or resolution of the case.

12 **I. DISCOVERY PLAN - REQUIRED BY FED. R. CIV. P. 26(f)**

13 **A. Rule 26(a) Disclosures (Rule 26(f)(3)(A))**

14 The parties propose that the disclosures required by Rule 26(a)(1) shall be
15 due on or before **April 25, 2014**.

16 The parties do not propose that any changes be made in the timing, form or
17 requirement for disclosures under Rule 26(a)(2).

18 The parties do not propose that any changes be made in the timing, form, or
19 requirement for disclosures under Rule 26(a)(3).

20 **B. Issues Regarding Discovery (Rule 26(f)(3)(B))**

21 **1. Subjects on Which Discovery May Be Needed**

22 If necessary, the parties shall conduct discovery concerning the claims raised
23 by Plaintiff in the Complaint and the defenses raised by Defendant in the Answer.

24 **2. When Discovery Should Be Completed**

25 Because this is an action brought pursuant to the Freedom of Information
26 Act, discovery should be stayed until Defendant has filed its motion for summary
27 judgment. Lane v. Dep't of Interior, 523 F.3d 1128, 1134-35 (9th Cir. 2008).

3. Limitations on Discovery

In an action under the Freedom of Information Act, discovery is limited and should be stayed until Defendant has filed its motions for summary judgment. See Lane v. Dep't of Interior, 523 F.3d 1128, 1134 (9th Cir. 2008).

C. Issues Related To Disclosure Of Electronically Stored Information (Rule 26(f)(3)(C))

The parties have agreed to produce hard copies of all relevant documents.

D. Issues Related To Claims Of Privilege Or Protection Of Trial-Preparation Material (Rule 26(f)(3)(D))

The parties do not propose any special procedure regarding privilege or protection of trial-preparation material.

E. Changes To Limitations On Discovery (Rule 26(f)(3)(E))

The parties do not request that the Court change the limitations on discovery imposed under these rules or by local rule, nor do the parties propose other limitations, however, the parties reserve the right to make such requests prior to the discovery cutoff date.

F. Additional Orders (Rule 26(f)(3)(F))

1. Rule 26(c) Orders

The parties at this time do not anticipate seeking any orders pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, however, the parties reserve the right to pursue such orders as needed prior to the discovery cutoff date.

2. Rule 16(b) Orders (Rule 16(b)(3))

(1) Deadline to Join Parties and Amend Pleadings

The parties propose April 30, 2014 as the deadline to join other parties and to propose amendments to the pleadings.

(2) Deadline to Complete Discovery

Discovery should be stayed until Defendant has filed its motion for summary judgment. Lane v. Dep't of Interior, 523 F.3d 1128, 1134-35 (9th Cir. 2008).

1
2 **(3) Deadline to File Motions**

3 The parties agree that it is in their mutual interest to engage in motion
4 practice without delay. Plaintiff first submitted its record request approximately
5 eighteen months ago, on October 8, 2012. On September 18, 2013, Plaintiff filed a
6 Complaint for Injunctive and Declaratory Relief Under the Freedom of
7 Information Act, 5 U.S.C. § 552 (the “Complaint”) alleging that Defendant failed
8 to respond adequately to Plaintiff’s Request. Defendant responded on February 5,
9 2014. The parties propose **June 23, 2014** as the deadline for Defendant to file any
10 motions. Plaintiffs’ motions, if any, will be filed on or before **August 5, 2014**.

11 **(4) Proposed Modifications of Times for Disclosure**

12 The parties have not proposed changes to the times for disclosure under Rule
13 26.

14 **(5) Proposed Modifications of Extent of Discovery**

15 The parties have not proposed modifications regarding the extent of
16 discovery, other than Defendant’s request for a stay of discovery pending
17 Defendant’s filing of its motion for summary judgment.

18 **(6) Proposed Provisions for Disclosure of Electronically**
19 **Stored Information**

20 The parties have agreed to produce hard copies of all relevant documents.

21 **(7) Proposed Agreements for Asserting Claims of**
22 **Privilege of Trial-Preparation Material**

23 The parties do not propose any special procedure regarding privilege or
24 protection of trial-preparation material.

25 **(8) Proposed Date for Conferences Before Trial, Final**
26 **Pretrial Conference, and Trial**

27 The parties note that they do not expect a trial in this matter as cases brought
28 pursuant to the Freedom of Information Act are typically resolved by motions for

summary judgment. Nonetheless, for purposes of this Rule 26(f) report, the parties propose **September 22, 2014** as the date for the Final Pretrial Conference. The parties propose **October 7, 2014** as the date for trial.

3. Rule 16(c) Orders

(1) Advisability of Referring Matters to Magistrate Judge

The parties respectfully do not consent to reference of this matter to the Magistrate Judge.

(2) Settlement Procedures

The parties have agreed to submit to Settlement Procedure No. 1, before the Magistrate Judge assigned to the case, pursuant to Local Rule 16-15.4.

(3) Form and Substance of Pretrial Order

The Pretrial Conference Order shall be completed in the manner and form contemplated by Local Rule 16-6.

II. ADDITIONAL ISSUES - REQUIRED BY LOCAL RULE 26-1

A. Complex Cases (Local Rule 26-1(a))

The parties agree that the Manual for Complex Litigation does not apply to this action.

B. Motion Schedule (Local Rule 26-1(b))

As is customary in FOIA cases, the parties anticipate that this action will be resolved through motion practice. The parties propose **September 1, 2014** as the cutoff date by which all dispositive or partially dispositive motions shall be heard.

C. ADR (Local Rule 26-1(c))

The parties have begun preliminary discussions concerning settlement of this action. Plaintiff has been advised of the necessity to present any settlement demands in writing. The parties have agreed to submit to Settlement Procedure No. 1, before the Magistrate Judge assigned to the case, pursuant to Local Rule 16-15.4.

ATTESTATION PURSUANT TO L.R. 5-4.3.4

Jason K. Axe, Assistant United States Attorney and Attorney for Defendant,
on whose behalf this filing is submitted, concurs in this filing's content and has
authorized the filing.

/s/ Jonathan H. Blavin
JONATHAN H. BLAVIN